

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2002-663

December 17, 2002

CENTRAL MAINE POWER COMPANY  
Request for Approval of Affiliated Interest  
Transaction with MaineCom Services

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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## **I. SUMMARY**

In this Order, we approve an affiliated interest transaction between Central Maine Power Company (CMP or the Company) and its affiliate MaineCom Services (MCS) whereby CMP will lease two strands of a fiber-optic cable between MEPCO's Orrington Substation in Orrington, Maine and Bucksport Substation in Bucksport, Maine.

## **II. BACKGROUND & ANALYSIS**

On October 30, 2002, CMP filed a request for approval of an affiliated interest transaction with MCS. The Company requires a link between the MEPCO substation and the Bucksport substation, a distance of roughly 13 miles, for internal communications and maintains that this link will enhance overall system reliability. Currently, Bangor Hydro-Electric Company's (BHE) wholly-owned subsidiary, Bangor Fiber Company (BFC), owns or controls all the available fiber capacity between those two points.

In its Orders dated July 13, 2000 and December 4, 2000 in Docket No. 2000-56: *Bangor Hydro-Electric Company, Request for Approval of Reorganization and of Affiliated Interest Transaction to Establish a Subsidiary, BangorCom, for the Purpose of Providing Multi-Strand Fiber Optic cable to Communications Carriers within its Service Territory*, the Commission granted approval for BFC's creation. However, at BFC's request, it was not found to be a public utility, and thus its operating authority did not allow for retail transactions. BFC continues to be limited to providing service only to telecommunications carriers. This limitation therefore precludes CMP from directly leasing the necessary capacity from BFC, and as a result, the Company has proposed that its telecommunications carrier subsidiary, MCS, lease the necessary capacity and then sub-lease to CMP under the proposed Fiber Use Agreement.

CMP and MCS consider this Agreement, which amounts to little more than a direct pass-through of the underlying lease rate between MCS and BFC, to be mutually acceptable. MCS's role in the transaction is nominal, and the parties expect that it will be limited to forwarding BFC's bill to CMP. Because MCS was found to be a utility at the time of its creation, Chapter 820 of the Commission's rules requires that it charge affiliates (such as CMP) for services at a tariffed rate, at a market rate or at a fully

distributed cost rate in that order of preference. The parties state that there is no tariff or market rate available for this service and that if there are any charges due from CMP to MCS, they will be made at MCS's fully distributed cost rate. The Fiber Use Agreement between CMP and MCS reflects this possibility; however, CMP expects any such charges to be minimal.

### III. DECISION

A public utility may not arrange for the furnishing of any service with an affiliated interest until the Commission finds that the arrangement is not adverse to the public interest. 35-A M.R.S.A. § 707(3). In this instance, CMP has reviewed the underlying lease agreement between BFC and MCS and concluded a satisfactory sub-agreement with MCS. CMP is currently operating under an incentive ratemaking regime (“ARP-2000”) and therefore has no reason to overpay an affiliate for providing this service. In addition, MCS will be recovering its fully distributed costs under the agreement and therefore will not be providing service to an affiliate at a “bargain” rate. Finally, it appears unlikely that there is another supplier option for the fiber capacity on this particular route or that another party would be likely to participate in a competitive bid to provide the type of “billing service” being offered to CMP by MCS. Therefore we find that agreement between CMP and MCS is not adverse to the public interest.

Accordingly, we

## ORDER

That the arrangement between Central Maine Power Company and MaineCom Services described in CMP's petition filed October 30, 2002, is approved.

Dated at Augusta, Maine, this 17<sup>th</sup> day of December, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR: Welch  
Nugent  
Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.